

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE

TALECRIS BIOTHERAPEUTICS, : Civil Action
INC., :
 :
Plaintiff, :
 :
v. :
 :
BAXTER INTERNATIONAL INC. :
and BAXTER HEALTHCARE :
CORPORATION, :
 :
Defendants. : No. 05-349-GMS

BAXTER HEALTHCARE :
CORPORATION, :
 :
Counterclaimant, :
 :
v. :
 :
TALECRIS BIOTHERAPEUTICS, :
INC. and BAYER HEALTHCARE :
LLC, :
 :
Counterdefendants.:

Wilmington, Delaware
Thursday, December, 2006
10:00 a.m.

BEFORE: HONORABLE GREGORY M. SLEET, U.S.D.C.J.

1 (indicating) .

2 The S/D process results in ISG preparations with
3 acceptable viral inactivation but with unacceptably high
4 levels of ACA. That's from their brief. And then, using a
5 final incubation step would surprisingly lower ACA to an
6 acceptable level suitable for IV administration.

7 We believe that the claims, the specification,
8 the file wrapper, as well as their own statements, make it
9 clear that Baxter's claim construction should be adopted by
10 the Court because it is proper.

11 The second term I would like to talk about is
12 acceptable level suitable for IV administration.

13 Acceptable doesn't sound like a very complicated
14 word. But when you are talking about ACA, everything is
15 complicated, unfortunately. It is very complex, because it
16 is not simply measuring the -- ACA is not like measuring the
17 length from the podium to the jury box. Everything we think
18 about ACA is more complicated. We understand from Your
19 Honor's order that you don't wish us to talk about our
20 general position on indefiniteness, so we will skip that.

21 THE COURT: Not at this time.

22 MS. SPAETH: We will go to our alternate
23 construction that we provided to the Court.

24 We believe that for acceptable levels suitable
25 for IV administration to be understood by a person of